

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 10-6029**

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JAMES FRANKLIN PIPES,

Petitioner - Appellant,

v.

DAVID BALLARD, Warden,

Respondent - Appellee.

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Appeal from the United States District Court for the Northern District of West Virginia, at Elkins. Robert E. Maxwell, Senior District Judge. (2:09-cv-00037-REM-JSK)

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Submitted: April 22, 2010

Decided: April 28, 2010

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Before TRAXLER, Chief Judge, and KING and AGEE, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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James Franklin Pipes, Appellant Pro Se. Dawn Ellen Warfield, Deputy Attorney General, Charleston, West Virginia, for Appellee.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Franklin Pipes seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on Pipes' 28 U.S.C. § 2254 (2006) petition. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2006). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that any assessment of the constitutional claims by the district court is debatable or wrong and that any dispositive procedural ruling by the district court is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484-85 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). We have independently reviewed the record and conclude that Pipes has not made the requisite showing. Accordingly, we deny Pipes' motion for a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED